

1 STATE OF COLORADO DEPARTMENT OF LAW

2 CFDCPA Consumer Group
Public Hearing

3

4 TRANSCRIPT OF PROCEEDINGS
July 30, 2018

5

6 Proceedings had on Monday, July 30, 2018, at
7 Ralph L. Carr Colorado Judicial Center, 1300 Broadway,
8 Room 1D, Denver, Colorado 80203, commencing at the
9 hour of 1:31 p.m., before JAN MICHAEL ZAVISLAN, Interim
10 Administrator; and Invited Members of the Public.

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4	SPEAKERS:	
5	Holly Shilliday	
	Sonia Gibson, Encore	
6	Darin Turco	
	Tom Romola, Associated Collection Agencies	
7	Michael Deeds, Law firm of Linebarger Goggan Blair & Sampson, LLP	
8	Don Schaefer	
	Dave Cannella, Credit Service Company of Colorado Springs	
9	Rhonda Denmy, Collection Center	
10	Frank Woodhouse, Alpha Recovery Corp	
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11	Julia German, Linebarger Law Firm	
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1 P R O C E E D I N G S

2 JAN ZAVISLAN: So thank you, everybody, for
3 coming. This is the first annual meeting of collection
4 agencies, attorneys representing them, debt buyers, and
5 other interested parties as mandated by House Bill
6 17-216, which repealed, as you recall, the Collection
7 Agency Board and placed on the administrator an
8 obligation to have biannual meetings, one in January
9 with the consumer groups, and one in July with the
10 industry groups and just other interested parties.

11 These are open. These are public meetings.
12 A notice went out via direct email to our entire list
13 of licensees and our entire list of other interested
14 parties more than 30 days ago.

15 I hope that's how all you learned about this.
16 And the goal today, after introductions, the goal is a
17 listening conference. All right? I am not going to
18 expound on the law, not going to expound on what the
19 office is currently doing, other than in response to
20 questions.

21 What I really want to do is hear from the
22 members of the industry and other interested parties
23 about issues that they think are critical issues that
24 they would like to see the administrator address in the
25 future via rulemaking, legislative or otherwise.

1 So, first, introductions. I should have
2 started with this. My name is Jan Zavislan. I've been
3 in the office for 30 years, but not in this role. I am
4 currently the interim administrator. I replaced Julie
5 Meade, who left several months ago.

6 I've been in this position now for about
7 three months. And purely on an interim basis. We're
8 actively looking to replace Julie on a full-time basis.

9 It will not be me. I did not apply. Even
10 though I like the work of this particular unit, I am --
11 after managing this office for 26 years, I like not
12 having to supervise people.

13 But it's been an interesting, obviously,
14 three months. I had filled this role as interim
15 administrator one time before, for those of you who
16 have been around a while, and some of you have.

17 Cora left the office after about 26 years as
18 administrator back in 2009 or '10. No, 2010 or 2011.
19 And there was an interim period of about four or five
20 months before Julie was hired that I acted as interim.

21 So I'm not totally naive on the work either
22 of the collection agency side of the Consumer Credit
23 Unit or the consumer lending side of the unit.

24 But I have some other staff with me today
25 that will hopefully, if questions come up of a

1 nonlegal, opinion nature, I can rely on them as well to
2 try to answer any questions.

3 Just a matter of housekeeping, restrooms are
4 out this door. The closest one is to your left about
5 100 feet down the hallway on your right as you're
6 walking towards what's the courthouse side of this
7 building.

8 There's a cafeteria across the hall, in case
9 anybody literally has to get their Starbucks fix before
10 the end of this meeting. My goal is to have this
11 meeting go an hour and a half.

12 That means, if you want to come up and ask
13 questions or make comments, that you need to limit --
14 depending on how many people are interested -- to try
15 to limit your comments, if you could, to about five
16 minutes.

17 And that will allow us, then, to have some
18 interchange as appropriate. But mostly, just to make
19 sure that we have enough time for everybody who wants
20 to make a public statement on the record -- and we have
21 a court reporter with us who's going to prepare a
22 transcript of today's proceedings, just like we did
23 back in January -- so we have enough time to get all
24 that done. All right?

25 So, before we take public comments, anybody

1 have any questions, procedural or otherwise?

2 (No response.)

3 JAN ZAVISLAN: Good. I hope this means we're
4 done. No? So, with that, and then, I'm going to have
5 you all come up here because this is the only live mic.
6 It makes it easier for our court reporter to be able to
7 hear you clearly.

8 I only ask that you try to talk slowly, give
9 your name, spell your name, and give the company or
10 association that you are here on behalf of today so
11 that we have as complete a record as possible.

12 So, with that, who would like to start us
13 off? Come on up. I'm just going to join you out here
14 and take some notes.

15 DARIN TURCO: Thank you. Darin Turco,
16 T-u-r-c-o. I'm here to represent the RMA and United.

17 JAN ZAVISLAN: Okay. No comment?

18 DARIN TURCO: No comment.

19 JAN ZAVISLAN: You don't need to come up and
20 just introduce yourselves. Sorry. There's a signup
21 sheet that's going around. Before you leave, make sure
22 you put your name, your company -- and I don't know if
23 we ask for contact information, but just make sure you
24 fill out the attendance list that's going around so
25 that we have a complete record. All right?

1 Anybody want to come up and make a comment?

2 Yeah, Tom.

3 TOM ROMOLA: Can we offer rebuttal from the
4 last meeting, from the last consumer meeting?

5 JAN ZAVISLAN: You can make whatever public
6 comments, Tom, you want to make.

7 TOM ROMOLA: Okay. My name is Tom Romola,
8 R-o-m-o-l-a. I'm the legislative chairman for
9 Associated Collection Agencies in Colorado, Wyoming,
10 and New Mexico.

11 And we have a number of items we want to talk
12 about. But first, I want to offer some rebuttal to
13 some of the comments that were made during the January
14 meeting.

15 We were not allowed to speak. Only the
16 consumer advocates were allowed to speak. And that's
17 fine. But there's a couple of things I want to clear
18 up.

19 One of the notions that came out of that
20 meeting is that collection agencies intentionally sue
21 people that are on Medicaid. That is so far out of
22 line, it's incredible.

23 Why would a collection agency file suit
24 against someone on Medicaid when, sooner or later,
25 they're going to find out that they have Medicaid, and

1 we're going to have to drop the case.

2 The collection agency in that instance loses
3 \$100, \$150 in court costs. The reason people on
4 Medicaid get sued, frankly, is because they failed to
5 communicate with the original medical provider; they
6 failed to communicate with the collection agency;
7 collection agency made cases that have no option but to
8 file a suit.

9 There's no way we intentionally file lawsuits
10 against collection agencies. And I'll ask the
11 question. Does anybody in this room do that? No. So
12 it's ridiculous. So please stop that notion.

13 It does not happen. Do people get sued on
14 Medicaid? Yes, but it's because they failed to
15 communicate.

16 Second issue that came up at that meeting was
17 the licensing of process servers. If you want to
18 license a process server, that's fine, but what's going
19 to happen is the fees that the process servers charge
20 us, and you, are going to go up. It's that simple.

21 So if you want, you can sue more people, but
22 if you want the consumer to pay more for a process
23 server fee that has a license, it won't affect us, but
24 it's going to be passed on to the consumer.

25 This bill came up in the legislature, I

1 believe, two years ago or three. The legislature, in
2 their wisdom, saw through this and saw that the people
3 behind this bill were the large process server
4 companies in the country who wanted to drive the little
5 guy out of business.

6 So that was -- the legislature saw through
7 that and defeated that bill. So it's not wise. It's
8 not helping consumers to do that. But if you want.

9 One of the things, Jan, in your report, on
10 page 6, I believe, if you have that in front of you,
11 Number 2, it says that we did not invite your office to
12 our annual conference. That's not true. We did.

13 I have emails I can show you that. I've
14 personally talked to Julie Meade on more than one
15 occasion about coming to the convention.

16 We talked about having a panel, and we talked
17 about what we were going to discuss at the convention.
18 So would you please amend that portion of your report
19 to the legislature to say that?

20 JAN ZAVISLAN: Yes. I'm sorry. I was
21 writing. Listen, there's a lot that gets dropped in a
22 transition. Not by way of excuse or explanation. But
23 in the records that I was able to locate, I saw
24 nothing. But I absolutely believe you telling me that
25 you guys invited them.

1 TOM ROMOLA: You know I'm a swell guy. You
2 know that.

3 JAN ZAVISLAN: I definitely do.

4 TOM ROMOLA: We do -- we would like to have a
5 rulemaking hearing. I don't want to dominate this
6 meeting today. But we would like to have a rule-making
7 hearing.

8 Jan, I was working with Julie and another
9 attorney in your office -- I'm sorry I don't remember
10 her name -- about addressing the (inaudible) law issue.

11 JAN ZAVISLAN: Repeat that.

12 TOM ROMOLA: It was the Lexington Law issue.
13 Are you familiar with that?

14 JAN ZAVISLAN: Yes.

15 TOM ROMOLA: Some in this room are. I was
16 cooperating with both of those folks. I haven't heard
17 anything else, so I don't know what happened. I was
18 also working with Julie on amending the Credit Repair
19 Statute to stop some of this nonsense that's going on,
20 and, of course, that fell through the cracks as well.

21 Any questions? You guys are easy. Thank
22 you.

23 JAN ZAVISLAN: Thank you, Tom. Anybody else?
24 I really am very interested, both for myself and for
25 the next full-time administrator, to hear where you

1 think there are issues that may be addressed or
2 questions that you may have, whether I can answer them
3 today or not. Yes.

4 SONIA GIBSON: Good afternoon. I'm Sonia
5 Gibson, G-i-b-s-o-n. I'm here representing Encore
6 Capital Group, which is a large, publicly-traded debt
7 purchaser and has subsidiaries that are licensed debt
8 collectors in the state of Colorado.

9 By way of background, Encore is a publicly-
10 traded company that's been doing business for over
11 60 years. We are purchasing primarily charged-off
12 credit card receivables, and we offer deep discounts,
13 affordable payments, (inaudible) consumers and help
14 them regain their financial footing and get back on
15 their feet.

16 Just last year, we forgave about \$3.8 million
17 of consumer debt in the state of Colorado. We offer a
18 consumer-centric approach in how we treat our
19 consumers. We (inaudible) from active-duty service
20 members. We have deep hardship policies.

21 And we offer consumers steep discounts and do
22 not charge any interest, as well as any fees. I want
23 to, also, in comments about the process servers, I just
24 want to reiterate that, I think, anecdotally, some of
25 the stories that I've been told are from decades ago

1 about process servers.

2 And we have implemented strict policies with
3 how we monitor or audit them regularly. We have a
4 detailed code of conduct that they must comply with.

5 And we have policies and procedures to ensure that
6 they're following all laws and regulations, as well as
7 conforming to any requirements, including any of those
8 set up by their particular trade associations.

9 With regard to the bill that was passed last
10 year, Senate Bill 216, which amended the California
11 Consumer Fair Debt Collection Practices Act, Encore
12 worked closely with the Attorney General's office, the
13 consumer groups and advocates, other stakeholders, and
14 the associations nationally.

15 And we're pleased to say that Colorado now
16 has some of the strictest requirements of the industry
17 and has brought the industry to a standard that many
18 other states do not have. And we're actually very
19 proud to say that.

20 I think that it's better for consumers and
21 it's better to the industry to have this new set of
22 policies, including very detailed, strict data and
23 documentation requirements of debt purchasers who
24 litigate accounts in the state.

25 And I think Colorado is truly forward-looking

1 in implementing these changes. And I think that the
2 effective date being just January 1, 2018, we really
3 should see these new rules play out before implementing
4 more strict requirements that I think the consumer
5 advocates in their January meeting were asking for.

6 We fully support creating strict
7 requirements, and I think the industry agrees with me
8 that we want to make sure that everyone is acting
9 according to law.

10 And we look forward to working together with
11 the Attorney General's office on any future potential
12 rulemaking. Thank you for your time.

13 JAN ZAVISLAN: Somebody else? Perfect.

14 HOLLY SHILLIDAY: Good afternoon. Holly
15 Shilliday of Craig and (inaudible). I represent
16 lenders and services who do real property court.

17 THE REPORTER: Speak into the microphone,
18 please.

19 HOLLY SHILLIDAY: Is that better?

20 SPEAKER: I didn't catch your name.

21 HOLLY SHILLIDAY: Holly Shilliday.

22 S-h-i-l-l-i-d-a-y. I represent lenders and servicers
23 in collection -- in connection with judicial
24 foreclosures.

25 And I guess my question is, I've analyzed

1 Senate 216 and kind of came to my own conclusion, but I
2 was wondering what you all believe is allowed with
3 respect to foreclosures and the application to 216.

4 I do believe that debt buyer, by definition,
5 a lot of my clients, we include as debt buyers. Then
6 there are other provisions in 516103(B) that would
7 exempt servicers and lenders who are foreclosing.

8 So the question then becomes is, is that an
9 exemption for everything, or does the law still apply
10 with respect to nonjudicial foreclosure? I guess the
11 question is, is that a collection of debt?

12 JAN ZAVISLAN: So my understanding -- can you
13 hear me okay from here?

14 THE REPORTER: I can.

15 JAN ZAVISLAN: So the collection on mortgage
16 debt that is attained while -- actually, after default,
17 I don't believe it applies. I'm going to turn to you
18 on this. It is not exempt from some of the provisions
19 of the Fair Debt Collection Practices Act.

20 But 216 did not change that law, did not
21 change where the FDCPA applies to the collection of
22 mortgage loans acquired after default.

23 HOLLY SHILLIDAY: Okay. Well, that's going
24 up to the U.S. Supreme Court because the Tenth Circuit
25 right now says that foreclosure activity is not debt

1 collection. But then that's a separate statute from
2 the state statute.

3 JAN ZAVISLAN: And the Colorado Supreme Court
4 has, years ago, already determined that collection of a
5 foreclosure action is the collection of debt that
6 requires foreclosure attorneys to comply.

7 Now, they may not be licensed, but the
8 foreclosure notices that I have seen that have come
9 from law firms have always contained the appropriate --
10 as well they should -- the ones I've seen have always
11 contained the appropriate, "This is an attempt to
12 collect a debt notice as required by the FDCPA."

13 So my view is that 216 did not change the law
14 in Colorado with respect to collection on foreclosure
15 through foreclosure on mortgage loans.

16 HOLLY SHILLIDAY: Okay. And then, if the
17 first -- if the party that foreclosed then went to file
18 a separate lawsuit to collect a deficiency, I mean, I
19 think that that probably is when for sure this kicks
20 in.

21 As far as the requirements of the --
22 attaching the copy of the notice, the debt, all the
23 stuff that's required, I'm just wondering what your
24 opinion is on that.

25 JAN ZAVISLAN: Well, again, I don't know. I

1 just want to make sure I'm not giving, especially as
2 the interim administrator, a legal opinion.

3 I can tell you that the -- we have viewed the
4 law historically as from the original notice to the
5 homeowner that they are going to be in foreclosure, up
6 through the foreclosure sale and the collection of any
7 deficiency, that the Fair Debt Act applies to that
8 conduct.

9 216 didn't change that law, didn't change how
10 we think the Colorado Supreme Court has interpreted
11 foreclosures as the collection of a debt.

12 HOLLY SHILLIDAY: Okay. Thank you.

13 JAN ZAVISLAN: Thank you. I don't know if
14 that helped or hindered. It's a funny game I have to
15 play to make sure that I'm not binding this office or
16 the permanent administrator.

17 So, you know, I apologize if I can't give as
18 clear an answer as maybe you wanted, but in that
19 instance, I think the correct answer is that 216 just
20 didn't change the law with regard to collection of --
21 through foreclosure of mortgage debt.

22 Other comments? Other issues? Yes.

23 MICHAEL DEEDS: My name is Michael Deeds.
24 I'm a capital partner with the law firm of (inaudible.)

25 THE REPORTER: Say that again.

1 JAN ZAVISLAN: Spell your last name.

2 MICHAEL DEEDS: Good deeds and bad deeds.
3 D-e-e-d-s. Just one comment. I respectfully suggest
4 that the Department of Law consider utilizing the
5 national multistate licensing system for issuing and
6 renewing collection licenses.

7 It does not diminish or impact the ability of
8 the Department of Law to interpret, demand, request, or
9 expand the bases by which you grant collection
10 licenses, but what it does do is assist the industry
11 with the annual licensing process.

12 It coordinates the renewal dates. It
13 coordinates the basis of the information. Colorado may
14 require a bit more information than the State of Idaho,
15 but if it does, the State of Idaho and every other
16 state in that entity would benefit from access to that
17 information, as would Colorado.

18 There is a portion within the NMLS database,
19 for instance, where I update on a weekly basis all
20 litigation that is pending with the law firm, not that
21 it is consumer-oriented or not.

22 But it allows the licensing entity a great
23 deal more access to other information, which you may or
24 may not wish to make access to. But when I have to
25 stutter-step my way on an annual basis through the

1 licensing process, continuous updating at various
2 things and times, based upon the presence or the
3 dismissal of litigation, it is great -- a great easier
4 process to simply go to NMLS, upload the data, get
5 immediate alerts from all of the states, which are a
6 portion of that database, and they instantly have
7 access to what I uploaded.

8 Now, I currently use NMLS for 84 licenses in
9 11 states and an associated number of branch offices
10 throughout the United States. I also do it on an
11 individual basis nationwide with a number of states
12 such as Colorado.

13 And I don't mind doing it. But there seems
14 to be a consensus, and I've spoken to regulators with
15 Massachusetts, Connecticut, Rhode Island, Indiana, and
16 they all find that makes their jobs easier, and it does
17 not diminish their impact on the issuance of the
18 licenses, but it certainly provides a great deal more
19 uniformity, and for everyone that has to see the
20 licensing, it certainly provides a central database in
21 which I can feed the data or remove it and it becomes
22 inapplicable to the process. Thank you.

23 JAN ZAVISLAN: Question, Michael. Before you
24 go, couple of questions. I'm not familiar -- are you
25 referring to the National Mortgage Lender, the Mortgage

1 Loan Originator database?

2 MICHAEL DEEDS: I think it has a lot of
3 databases. And then, basically, it's all the same one.
4 It's also called NMLS. Yeah.

5 JAN ZAVISLAN: So I was not aware that you
6 could register nationally a collection agency or debt
7 collector in the NMLS. How do you think that would
8 work here?

9 What would be required for the State of
10 Colorado to participate in a national registry or
11 license database?

12 MICHAEL DEEDS: NMLS does not issue national
13 licenses. It is the data clearinghouse for the
14 information which a state would utilize and by which it
15 would vet whether the applicant is worthy of a license.

16 But you also have the advantage of a number
17 of other states. I'm going to use Idaho as an example.
18 They are very picky, and they are very demanding, in
19 terms of what they desire to have, in terms of the
20 information, quarterly filing of collectors' reports.

21 If I hire or fire a collector, I have to
22 notify them almost immediately. I think every quarter
23 is pretty tough, but we do it. Annually at the end as
24 well.

25 So it's -- you would still issue the

1 licenses. And, really, the only thing that changes is
2 the renewal. All licenses at NMLS expire on
3 December 31st, and they're renewed for the whole year.

4 Some states have gone also to multiyear
5 licenses, and that could be done as well.

6 JAN ZAVISLAN: Do you think it would
7 require -- sorry to put you on the spot here -- but a
8 statutory change, or do you think the administrator in
9 rulemaking could take something like this up?

10 MICHAEL DEEDS: I think it's a state-by-state
11 decision, based upon how your rules are phrased. I
12 mean, I think in Massachusetts, they have the authority
13 under their existing rules and regulations.

14 I'm unfamiliar whether Colorado has granted
15 the Department of Law contracting authority to --
16 really, the NMLS would not grant the license. You
17 would still grant the license. It merely serves as a
18 database.

19 And at the end of each year, you have to
20 scrounge a little bit. But I got all 84 of those
21 licenses renewed.

22 JAN ZAVISLAN: Okay. Thank you. Any
23 questions for Michael about that?

24 TOM ROMOLA: Is there a fee related to that
25 service?

1 MICHAEL DEEDS: Sure, there is. Everything
2 has a fee. We pay a fee.

3 TOM ROMOLA: What is it?

4 MICHAEL DEEDS: I'm not aware of whether or
5 not the state does. I know that -- I'll just use us as
6 an example -- we have software which we sell. We don't
7 give it away. So we charge for the delivery of
8 information.

9 So how NMLS makes their money, outside of
10 what I pay every year for my licenses, I don't know.
11 But they do use it.

12 DON SCHAEFER: Excuse me. There is a fee,
13 but it's very minimal.

14 JAN ZAVISLAN: Name, please, on the record.

15 DON SCHAEFER: Don Schaefer, S-c-h-a-e-f-e-r.
16 But the NMLS fee is very minimal, just a few dollars.
17 So it's very efficient too because, as Michael says,
18 you put in your information once, and then they pass it
19 along to everybody who is a member.

20 I'm saying, probably each year, probably
21 seeing this as well, each year, there's another two,
22 three, four, five, or more states that are jumping onto
23 the bandwagon. It's definitely worth investigating.

24 MR. ZAVISLAN: Just -- sorry. Jumping onto
25 the bandwagon, to replace or at least supplement their

1 license of debt collection entities?

2 DON SCHAEFER: Right. So I'm currently
3 licensed in a number of states, and probably maybe a
4 third of them are using NMLS. Sound about right to
5 you?

6 More and more every year, with the idea here
7 being these are for, you know, how many times do I have
8 to give this data? In the old days, we used to have to
9 give it in every single state, and some of them had
10 multiple bases as to how they handle the questions and
11 their information.

12 But here, it's kind of a deal where you turn
13 it into them, and they give it to all of their
14 partners, if you will, in each individual state.

15 MICHAEL DEEDS: Certain states have also
16 utilized the service for the filing of an annual report
17 with the Secretary of State, in addition to licensing.

18 And NMLS is very good about issuing email
19 reminders. Every state has a different date upon which
20 their annual reports expire and the amount of
21 information required.

22 All of the bonds are uploaded to NMLS, so you
23 would be able to go as -- you would be the subscriber.
24 You would have an access code. You would be able to
25 immediately go and look at every bond that I've filed

1 on behalf of my clients that use NMLS for collection
2 notices.

3 SONIA GIBSON: Additionally, for consumers,
4 it's easier. Sonia Gibson, Encore. For consumers,
5 it's easy to check the license and whether someone is
6 licensed. You can search the company, and it shows you
7 which are licensed in what state.

8 MICHAEL DEEDS: There are certain ones for
9 attorneys. I still rely a great deal on the attorney
10 law functions. If I'm -- if I have an attorney
11 licensed to practice in a particular state, and I can
12 avoid having a collection license, I do so because I
13 have the right as an attorney. And I stand by that
14 right. Thank you.

15 THE REPORTER: Tell me the name of your firm
16 again, please.

17 MICHAEL DEEDS: Linebarger, Goggan, Blair,
18 and Sampson, LLP.

19 JAN ZAVISLAN: Other comments, questions,
20 statements, testimony? Yeah. Thank you.

21 DAVE CANNELLA: Good afternoon. Dave
22 Cannella, C-a-n-n-e-l-l-a, the owner of Credit Service
23 Company of Colorado Springs, a third-party debt
24 collection agency.

25 I spent six years on the collection agency,

1 both with the board (inaudible), prior to its
2 dissolution. The one comment I would ask is to
3 increase communication between the industry and the
4 regulator.

5 I think you have a lot of companies out there
6 working very hard to comply, and their life would be a
7 lot easier if the rules of the road were clear and
8 modernized.

9 I think there's things, such as emailing a
10 consumer, that it would be nice to see some rules
11 around. That, and other forms of modern communication.

12 So to me, my request, or, I guess, my comment
13 for the record for this meeting would be to look at
14 getting some hearings around the rules started so that
15 we could start chipping away, I think, at some of the
16 antiquated rules and maybe including some that would be
17 more helpful to the consumers, as well as the industry,
18 so that we could comply.

19 Jan, I'll never forgot this. It's a lot of
20 years ago. You were interviewed by the news. And one
21 of the comments you made was, "The purpose of the
22 regulator was to make sure that those businesses that
23 are attempting to comply aren't unfairly disadvantaged
24 by those that aren't."

25 And we'd like to see, I think, more in that

1 realm. That meant a lot to me as an owner trying to do
2 the things that are right in this business, and our
3 goal is to treat all the consumer (inaudible) equally.
4 So that's my comments.

5 JAN ZAVISLAN: Before I let you go, so two
6 things. I appreciate your memory is better than mine.
7 But I can tell you, one of the things that I have
8 learned over the last three months is just how much
9 effort staff are putting into unlicensed activity.

10 The number of cease and desist letters, the
11 number of licenses that are either a renewal is denied
12 or an original application denied because it turns out
13 they've been in business, for one, longest 14 years
14 without getting a license, and their license is going
15 to be denied.

16 And so I think it is my view, even though I'm
17 just temporary, but I think Julie very much had the
18 same view, is that it's unfair to consumers when you
19 have debt collectors that aren't following the law.

20 But it's unfair to debt collectors like your
21 company that get compliance, get licensed, and can't
22 compete against these guys.

23 So I want the room to understand that that's
24 always going to be of interest to our office. But I'm
25 also -- Dave, I want you to stay up there because I'm

1 curious about -- you mentioned, you know, rules that
2 address modernizing and the more modern ways that
3 people now communicate.

4 What are the other areas? You can answer,
5 and I'll open it up to the room, where you think that
6 the rules -- current rules are outdated and ought to be
7 addressed?

8 DAVID CANNELLA: Email comes to mind for me.
9 Without any guidance, sometimes it's a little bit of a
10 crap shoot on what action you take to try to
11 communicate with that consumer. And we are getting
12 that request.

13 I was listening to a call and doing an
14 evaluation. The consumer said, "Hey, could you email
15 that notice to me?" And my collector at the time
16 responds, "No. We don't have that service available."

17 And the consumer's response -- aging myself a
18 little bit -- says, "Well, it's only 2014. Why would
19 you have that service, right?"

20 I mean, so to me, as an agency and using
21 vendors that are servicing us to provide this
22 communication are looking at ways to provide a service
23 that the consumer's asking for, but then also being
24 compliant with the current state of the rules, which
25 weren't really set up to deal with this particular

1 technology.

2 That would be an example. Texting would be
3 another one.

4 JAN ZAVISLAN: Okay. Other -- I mean, I'm
5 curious. Tom, on this issue, where can we clarify?

6 TOM ROMOLA: There are a couple of rules.
7 And I have a list. And I'm sorry to bring this in.
8 Couple of them come to mind, and one -- this was one of
9 Julie's things, too -- was to streamline the
10 application process.

11 JAN ZAVISLAN: Okay.

12 TOM ROMOLA: And to streamline the sale or
13 the transfer of business, which is really confusing. I
14 personally won't go through that again. And relied on
15 her expertise to get that figured out.

16 I hope she did it right. But another one
17 that just irks the hell out of me is where we have to
18 verify the payment over the phone. When that rule was
19 adopted, and I worked with Laura on that, that was the
20 exception. That -- to me, that's the norm.

21 I want to guess -- other people can comment
22 on this -- I'm going to guess 90 percent of the
23 payments we get now are over the phone, whereas when
24 this rule was adopted, it was 10 percent.

25 So that rule, no one else -- you can make so

1 many payments online or over the phone, so forth, no
2 one else has to verify that payment.

3 But, once again, we're treated like
4 second-class citizens, and we're tired of it. And I
5 have another list. I'll be happy to get that to you
6 when the time comes. Those are a couple that come to
7 mind.

8 JAN ZAVISLAN: Somebody down here had a hand
9 up.

10 FRANK WOODHOUSE: My name is Frank Woodhouse
11 with Alpha Recovery Corp. And I was just going to jump
12 on board with what you were talking about. We have
13 cell phones, text messaging, all the things that, you
14 know, most people that are doing nowadays, completely
15 in a way that they do business, you know, all the way
16 through being able to access your website and make a
17 payment and things like that, I mean, you have to make
18 it -- you know, there has to be a good, strong rule in
19 place because it's amazing, the attorneys that are
20 coming after us for every little thing.

21 And it's getting onerous, obviously. That's
22 always been the case in this industry. When you start
23 talking about, you know, all their options that they
24 have to sue us on for basically following the rules, it
25 doesn't matter if you follow the rule; they can still

1 sue you, and you have to settle with them.

2 So, I mean, if there's, you know, some strong
3 legislative reason, or -- to get it, you know -- get it
4 down on paper exactly what the law is and the way it
5 reads in reference to taking payments, to talking to
6 consumers, these are really, really important things
7 because we are, you know, in 2018 right now.

8 And everybody not only knows the law out
9 there, but they know how to bend the law. They bend it
10 the wrong way, rather than the people that are trying
11 to do business the right way, and spending thousands
12 of -- tens of thousands of dollars on compliance in
13 order to make sure you do it the right way, then to
14 have it come back on you.

15 And a lot of it has to do with the law
16 itself. CPA (inaudible) outdated. And nobody wants to
17 touch that at a national level with a 10-foot pole.

18 But here in the state of Colorado, being one
19 of the tightest, you know, with the CFA -- with the
20 CFDCPA, I mean, you guys should be looking to break new
21 ground and bring that to the forefront a little bit
22 because it's difficult to focus on doing the right
23 thing every single day, but it doesn't matter at the
24 end of the day. You're still going to have to defend
25 yourself for doing the right thing.

1 RHONDA DENMY: Rhonda Denmy, from the
2 Collection Center. I wanted to get on that as well.

3 JAN ZAVISLAN: Were you able to hear her?

4 THE REPORTER: Not the last name.

5 RHONDA DENMY: Denmy, D-e-n-m-y. We struggle
6 with that every single day as well, as a consumer. You
7 know, I think, talking to consumers nowadays, in
8 understanding how they want to be communicated with,
9 they don't want -- they don't want to call. They don't
10 want to have a conversation.

11 They want some technology base to make that
12 payment and resolve that issue. And because of the
13 restrictions, it's hard to provide them with that doing
14 the right thing. And so I think that's definitely an
15 area we need to look at.

16 JAN ZAVISLAN: We appreciate that.

17 MICHAEL DEEDS: I'd also like to throw in the
18 added problem being an attorney in the collection
19 business and meaningful involvement when it comes to
20 accounts.

21 My firm did a billion calls this year. We've
22 mailed out just many letters. And for a plaintiffs
23 attorney to sit there and tell me that I've got to look
24 at every file and know the details of that particular
25 file (inaudible) involvement is frivolous because I'm

1 relying upon the data provided by my client, coming in
2 digital format, (inaudible), I'm using that to keep up
3 with phone numbers and letters, and letters are
4 approved in every state.

5 But I still get attorneys who think we're
6 fair game simply because I do not have some associates
7 sitting down with the billing files, going over each
8 one, and putting a check on it before I send it to a
9 phone center or issue a letter.

10 And I think the states need to have a greater
11 sensitivity to what does constitute a meaningful
12 involvement when attorneys are involved in a
13 high-volume practice like debt collection because
14 meaningful involvement certainly does not apply to a
15 standard collection agency.

16 They love their data just like we do. They
17 make their phone calls just like we do. Our personnel
18 is simply working for a law firm as opposed to an
19 agency. There's an extra layer of scrutiny applied to
20 us that makes us more readily available targets to
21 attorneys.

22 I'm moving right now to have an attorney
23 disbarred for filing a frivolous lawsuit against my
24 firm because I think he's stepping over the line. But
25 the state in which this particular attorney practices,

1 I feel, abandoned their responsibility by not having
2 proper recognition of when attorneys do practice the
3 art of collections.

4 And it is an art because of the technical
5 nature. There needs to be greater sensitivity, not
6 only to the high volume that anyone with a predicted
7 dialer can do. I can crank and dial 2 billion calls a
8 year easy.

9 I mean, it's just a matter of shortening the
10 time being the predictive nature of the algorithm and
11 my collections (inaudible.) Left and right. But
12 there's a certain amount of -- it's a bad mix right
13 now.

14 There's no standard definition for the
15 involvement outside of what the Supreme Court has said,
16 and that turned out to be a ridiculous statement. But
17 I think the states need great sensitivity to the fact
18 that it's a high-volume, high-tech industry these days.

19 And it's no longer -- I have no office with
20 even a rotary dial or even a press button phone to make
21 collection calls. That's 20 years ago. And I just
22 think that technology has surpassed where the
23 regulations currently stand.

24 And I think the perspective on the industry
25 as being engaged is a generation old and needs to be

1 updated pretty dramatically. It's not so much from the
2 legal perspective of what the legislature needs to do
3 as much as a sensitivity for the regulators to
4 recognize that the industry technology has made
5 dramatic improvements and strides, and we're outpacing
6 the laws and the interpretation being rendered by most
7 of the regulators.

8 JAN ZAVISLAN: Michael, are there -- or is
9 there a set of regulations? Has the state taken a look
10 at this and has moved the ball forward, in your
11 opinion, on, sort of, modernizing, you know, whether --
12 whether -- you know, whether it's meaningful
13 involvement or just general communication with the data
14 release?

15 MICHAEL DEEDS: Several large law firms --
16 and I'll just use Thomas Knight as an example because
17 (inaudible.)

18 THE REPORTER: Speak up, please.

19 MICHAEL DEEDS: Thomas Knight is a law firm.
20 And they come in and do an efficiency audit. And they
21 will look at how much involvement my attorneys have,
22 and does that sufficiently constitute meaningful
23 involvement to shield us from frivolous lawsuits.

24 Most of the lawsuits that are filed against
25 us are frivolous. Yeah, they're -- they're -- it's not

1 as much a set of guidelines as it is there are
2 protocols in place at some of the larger firms that
3 reach out, get (inaudible), we used them, that will
4 come in and do an audit.

5 And they'll look at our procedures and, you
6 know, how do we select letters and phone calls, what
7 processes do we use to push them through the point
8 where we have to go to a lawsuit or some go back to the
9 client for dismissal or for forgiveness.

10 JAN ZAVISLAN: So I think my question,
11 though, was are you aware of a state regulator that has
12 taken on this task?

13 MICHAEL DEEDS: No.

14 JAN ZAVISLAN: Okay.

15 ALAN GREENBERG: Very briefly. Alan
16 Greenberg. I don't -- I very much share my friend's
17 issue with regard to a meaningful involvement problem.

18 I don't think that that's a problem that we
19 have with the administrator at all or with the state
20 law at all. I thought Mr. Cannella's remarks were a
21 little bit more broad about issues we do have with the
22 administrator, with the AG's office, having to do with
23 communication.

24 You indicated very briefly that here's a
25 collection agency that's been out here for 15 years and

1 never licensed. Could it be they weren't aware that
2 because of the particular work they were doing, the
3 license was required?

4 We think that the statutory delegation to the
5 administrator to interpret the statute is extremely
6 limited under the 113, but the rulemaking power is very
7 broad.

8 And where the administrator has chosen to
9 regulate by enforcement particular interpretations that
10 she has of what's debt collection, of what's the
11 correct way to assess fees, these matters of
12 interpretation are being seen by my clients, many of
13 whom (inaudible) have a substantial commitment to
14 compliance, only as defendants in the administrative
15 enforcement action, no way is it discernible from any
16 reasonable interpretation of the statute or the rules.

17 We think that one of the reasons the
18 statutory delegation rulemaking is as broad as it is is
19 to provide important guideposts to the industry on what
20 conducts should or shouldn't be conforming.

21 In the old days, when the administrator had
22 regular board meetings, we were able to determine those
23 positions the administrator was taking with regard to
24 these legal issue well in advance of any enforcement.

25 And we were able to share information on that

1 basis. Now as quid pro quo, the board is gone. I
2 understand that. This meeting and other communications
3 are supposed to facilitate some of that same guidance.

4 I'm hoping it will be more aggressive about
5 use of that guidance and more ready to promulgate rules
6 so that the compliance staff and my clients will know
7 what's going to be required.

8 JAN ZAVISLAN: Yeah. I think that's a view
9 that probably most of the industry in the room would
10 share. I've certainly seen in my three months, other
11 than vacation, about that, and I know it's been quite
12 some time since formal rulemaking was done on the
13 collection agency side.

14 Believe me, it is on everybody's radar screen
15 as we approach a point of a new administrator. We're
16 going to be getting a new Attorney General come January
17 as well. But it is something that I certainly believe
18 is overdue as well.

19 TOM ROMOLA: Before we're out of time, I want
20 to make a couple of comments.

21 JAN ZAVISLAN: Do this up here, then, just
22 for ease.

23 TOM ROMOLA: Can I follow up just quickly?
24 So just a practical on the unlicensing question, I
25 think there's a lot of circumstance that goes around

1 what created the unlicensing situation.

2 There was a time on the board where the board
3 members received the details of disciplinary action.
4 And we were able to kind of -- I mean, we spent hours
5 sifting through that, which gave me a lot of insight as
6 to how to help our agency members of the association or
7 agencies that are licensed in Colorado or agencies
8 seeking to license in Colorado how to comply.

9 And that level of communication decreased
10 over my six years on the board. So I guess the point
11 there is, there was -- there was a time where a few --
12 a number of out-of-state agencies were changing --
13 weren't changing their address.

14 They were changing their in-state office but
15 not notifying your office of that change. Everything
16 else they were doing was likely above-board, meaning
17 they were communicating with their consumers; they
18 could be found by their phone number. They were
19 answering their emails.

20 The question would be, in that case, what
21 is -- what is -- what is that -- is classified, and
22 how, as a unlicensed collection agency, from the time
23 they changed their in-state office until they renewed,
24 which has been found out about that address change, or
25 is it an organization -- because I don't like to call

1 them a business if they're not licensed in any way,
2 shape, or form, and just attempting to skirt all
3 regulation, that organization, I think, is behaving
4 with a whole different set of intentions.

5 So to me, the level of communication is super
6 helpful to the industry, so that, again, we're looking
7 for, what is the clear road?

8 And I'd much rather learn that through a
9 friendly call or friendly letter than finding myself as
10 a defendant because at that point, it's a little tough
11 to discuss what is really right and wrong.

12 You just put on your defense hat. And that's
13 all you can do. So to me, I think, again, trying to
14 reinforce the importance of the communication between
15 not just between the regulatory entity and your office,
16 but what is the interpretation? What is the law? What
17 is the clarity? That would be very helpful to us.
18 Thank you.

19 JAN ZAVISLAN: Yeah. Tom.

20 TOM ROMOLA: Thanks. I just want to make a
21 few follow-up comments. One is, I think we've already
22 mentioned, we would like to work closely with the new
23 administrator.

24 I don't want to pile on Julie. Her and I had
25 our differences and so forth. But it's easier for us

1 to work together than to butt heads like we've had the
2 last few years.

3 It's also important for the consumer people
4 in this room to understand, we're not the bad guys. If
5 you look at this report, 210 complaints have been filed
6 since January 1st against licensed collection agencies.

7 My experience in dealing with Laura and Julie
8 is, out of that 210, half or less are legitimate
9 complaints. A lot of these complaints are, "I went to
10 the dentist, and my tooth fell out."

11 Well, that's not a complaint against the
12 collection agency. That's a complaint against the
13 dentist. Out of the millions and maybe billions of
14 contacts we make every year, we've had 210 complaints.
15 We're not the bad guys.

16 Without us, without collection agencies -- I
17 sometimes refer to us as civil police. Without us,
18 this country is in chaos. This country folds up in a
19 week. If there aren't people out there to enforce
20 payment of debts and allow you to have credit, then
21 we're in trouble.

22 So many of you consumer folks, next time you
23 go buy a car, think about that, how much more you're
24 paying for that car, and could you really pay cash for
25 that car with your credit dried up?

1 Because that's what you want. There are some
2 people in this room who don't want garnishments for
3 debt. They don't want debts to be collected. And it's
4 sad.

5 So think about that the next time you have a
6 medical procedure or buy a car. We're not the bad
7 guys. Please, new administrator, have her work with
8 us, please.

9 JAN ZAVISLAN: You bet.

10 TOM ROMOLA: Or he.

11 JAN ZAVISLAN: Anything else? Any other
12 comments, thoughts, suggestions, ideas? Concerns?

13 MAKYLA MOODY: Good afternoon. My name is
14 Makyla Moody from Greenberg and Sada. M-a-k-y-l-a,
15 M-o-o-d-y. I'm a licensed attorney here in Colorado,
16 and I represent a number of different agencies and
17 outside from across the country in various matters.

18 One of the things that is particularly
19 frustrating is the lack of communication. As this
20 licensing renewal process came up this June, one of the
21 issues that came to light that may have been an
22 oversight during the sunset review of the legislation
23 that we're talking about today that fostered this
24 particular meeting was that the web address that's
25 required on first notices was not updated in the

1 statute.

2 That web address changed two years prior.
3 And when that happened, any new agency stepping into
4 Colorado couldn't -- they are looking at our laws,
5 going, "Okay, I have to put a current address on
6 there."

7 And for a long time during that two-year
8 period, the old address still worked and redirected to
9 the new thing, but without a redirect notice -- it took
10 a little while for the redirect notice to get in.

11 And only recently did that web address
12 change. The number of agencies that have contacted my
13 office, in particular, during this renewal cycle to
14 confirm what the correct address was was exceedingly
15 frustrating.

16 Previously, there had been memos sent out to
17 the licensees. Anybody who was looking to become a new
18 licensee to the State of Colorado wouldn't have gotten
19 that memo.

20 That's where an advisory opinion or notice
21 would have come in handy to have that there. I don't
22 know that your (inaudible) address at your website.
23 The last advisory opinion that was issued by the
24 administrator was in 2006.

25 Since that time, there has been a frustrating

1 lack of communication. The Collection Agency Board
2 rules, I think we will agree, need to be updated to
3 address the technology. There's licensing issues that
4 come up frequently.

5 JAN ZAVISLAN: Some what to come up?

6 MAKAYLA MOODY: Licensing issues. The
7 administrator has brought discretion about what is
8 necessary to issue a collection agency license under
9 the statute, and that's where rulemaking comes in
10 handy.

11 I understand there's some discrepancies
12 within the administrator's rules on that particular
13 topic that have caused a lot of agencies not to
14 understand when they have to be licensed because there
15 is sort of a reciprocity.

16 And over the years, what's been commonly
17 accepted by the administrator as a reciprocity has
18 apparently been narrowed down. And we're seeing issues
19 with that.

20 Again, it would be helpful if there were more
21 guidance from the administrator as to what was required
22 so that people seeking to come into Colorado to be
23 licensees know what to expect and know what they have
24 to comply with.

25 Some of them don't know who to reach out to,

1 if you're an out-of-state agency, who to reach to as
2 local counsel even to inquire. They're opening (sic).
3 They've got compliance officers who are going to our
4 statutes and looking at our statutes.

5 You look at the web address, and you think
6 that's the right web address. I happen to see a lot --
7 I do notice review requirements for a lot of agencies,
8 and I am frequently correcting that for a lot people.

9 And I've given quite a few arguments with
10 agencies because they're like, "No, the statute says,"
11 and I have to explain to them it's been updated, and
12 no, there isn't any notice on the AG website as to
13 that.

14 One of the other things that we end up with
15 that's a frustration for the industry is the complaint
16 process. As Tom indicated, there are 200-some
17 complaints, but the question is how those complaints
18 are getting handled and processed in that particular
19 regard.

20 Complaints over a doctor's bedside manner
21 doesn't go against the agency. Complaints about the
22 judicial process, where there's been litigation and
23 somebody's trying to use the administrative tactic to
24 overrule a judicial opinion, it doesn't quite work that
25 way.

1 Some of it's just a lack of civics
2 understanding within the broader populous. But what's
3 been communicated to the industry, they have to answer
4 these complaints, and they do. It's an expense. It's
5 time. It's energy.

6 It's taking away from the normal business
7 activities. But then they get nothing communicated in
8 a response unless there's an enforcement action. I
9 understand that my clients would like to at least know
10 something's closed.

11 I've had agencies that respond to a
12 complaint, and it takes six, seven months before they
13 realize they're already into enforcement action or
14 headed to an enforcement action.

15 They're answering questions that they don't
16 know why. And some type of advisement, or at least
17 some notice so that they know when they can close their
18 files on the complaint process would be exceedingly
19 helpful for the industry as a whole.

20 And one of the new issues that we're starting
21 to see is consumers who file repetitive complaints.
22 And it's particularly bad at the national level with
23 the CFPB. I've got one agency -- my apologies; they
24 changed their acronym.

25 But at the federal level, I've got one client

1 that's received nine separate complaints from one
2 consumer. And being able to shut that process down
3 instead of taking away from addressing legitimate
4 concerns to rehash the same information gets very
5 costly for these agencies.

6 And we would just like to see some kind of
7 mechanism for addressing that with the administrator.
8 And I thank you for your time. Tom?

9 TOM ROMOLA: Sorry.

10 JAN ZAVISLAN: So let's -- I think those are
11 all great points. I appreciate that very much. One of
12 the things that we have done that just purely
13 coincidentally overlapped with me as the interim
14 administrator was the decision I made, is we've
15 actually converted an STE that was formally a paralegal
16 into a compliance specialist, so who's going to be able
17 to hopefully be able to work and more get their hands
18 dirtier or bloodier in the complaints, help us analyze
19 on the one side.

20 But maybe that's an opportunity for us to
21 triage a little bit better what comes out of our office
22 to the industry as well. So just know that that's just
23 literally -- she's in the room today, but just started
24 a week ago.

25 So -- so, you know, I think that that's a

1 well-taken comment. And I worked in consumer fraud and
2 continue to work in consumer fraud. And we have a much
3 different triage methodology with complaints that come
4 in false advertising and the like.

5 We refer to other agencies. We close
6 complaints without action much more frequently, I
7 think, that the historical practice has been every
8 complaint goes out. And maybe we need to take a look
9 at that.

10 It's not going to be my decision, but I think
11 it's legitimate concern.

12 MAKYLA MOODY: Thank you for your time.

13 JAN ZAVISLAN: Anything else? The statute
14 says we do this for two years. Is there -- should this
15 look different? It won't be me setting up next time,
16 but there will be a record of it.

17 Do you think that the next time, this time a
18 year from now, this meeting, or even if you have an
19 opinion about the -- sort of the consumer side meeting
20 in January, should this look different?

21 Should this be done differently to make it
22 more meaningful? Any thoughts anybody has about that?

23 MAKAYLA MOODY: More information on the
24 actual complaint that you're seeing would be helpful.

25 JAN ZAVISLAN: Okay. In the aggregate?

1 MAKYLA MOODY: Yeah. When convenience fees
2 became an issue on the prior meeting, it was less
3 advisory opinion than was issued in 2006. That's when
4 (inaudible) issued her advisory opinion so that we had
5 more information.

6 If you're not doing advisory opinions on
7 issues like that, obviously, you said licensing was a
8 major issue for your department and unlicensed
9 agencies.

10 Having more information on what type of
11 unlicensing, if it's because a license -- they have a
12 license, and it expired because they didn't get it
13 renewed because it was issued in May and then forgot to
14 reapply in June, I've seen that happen.

15 Just generally with -- they're in business
16 and not licensing across the board, like debt scams and
17 stuff like that, that's one thing. But if they are a
18 legitimate business that a license expired, it changes
19 the ball game.

20 JAN ZAVISLAN: One thing, and it would have
21 been -- and this is just, I think, maybe, I wasn't
22 familiar with enough at the time that we did the annual
23 report this year, but we broke down in as broad as
24 possible terms the number of complaints.

25 But I certainly think in the future years on

1 that report, it could provide more granular
2 information. Again, aggregated on, you know, X number
3 of complaints about, you know, X, Y, and Z practices to
4 maybe give you a little bit more insight generally over
5 the kind of complaint trends that we're seeing as we
6 collect some of the complaints.

7 That would be, I think, helpful for the next
8 time we do those reports. Yes.

9 RHONDA DENMY: It might also be helpful --

10 JAN ZAVISLAN: And you are, again?

11 RHONDA DENMY: Rhonda Denmy, Collection
12 Center. It might also be helpful to identify what
13 percentage of those complaints end up not being
14 legitimate complaints.

15 I think, oftentimes, when you talk to the
16 public, there's this many complaints, and like Tom
17 referred to, you know, sometimes -- a lot of times,
18 less than half end up being where something was
19 actually done wrong.

20 JAN ZAVISLAN: So -- so let's -- so there's a
21 little bit of subjectivity there. I mean, obviously,
22 there are going to be those that are obviously
23 unrelated to debt collection.

24 They're complaining about a service provider,
25 not about the debt they incurred or really about the

1 nature of collection activities. So those are clearer.
2 I don't know. I don't know how far we want to
3 interject, sort of, our subjective beliefs as a
4 regulator into the legitimacy of, maybe, the closer
5 call complaints.

6 It's worth having a discussion that we
7 certainly can have about that.

8 SONIA GIBSON: Sonia Gibson, Encore. I think
9 the distinction that we would ask for is maybe an
10 inquiry, versus complaint or dispute. So I think
11 everybody can be logged into an inquiry.

12 But, you know, the vast majority of the time,
13 I think it's something like, This is not my debt, to
14 which the response would be, Prove that, in which case,
15 it's not really a complaint. It's not -- it's more an
16 inquiry about their debt.

17 JAN ZAVISLAN: Okay. Tom.

18 TOM ROMOLA: Couple of complaints. One is
19 that when we do get a response or a debtor gets a
20 response to the complaint, it says, in so many words,
21 We're not taking any action at this time.

22 That's pretty broad. Why can't it say, We
23 found no violation based on the information provided?
24 That's one.

25 Second thing is, in the past, past

1 administrators have taken complaints, and one complaint
2 with multiple violations, didn't get a validation
3 letter, called me 45 times the same day, charging me
4 too much, et cetera, and counted each one of the
5 violations as a complaint.

6 It's one complaint. It's not four. It's not
7 three. It's one. And they had the number of
8 complaints, again, I think they may justify their
9 existence in this department and make us look bad.
10 It's one complaint.

11 JAN ZAVISLAN: So I think that when we report
12 the numbers of complaints that we receive -- Nick, I'll
13 ask you -- they are -- you're not parsing out a
14 complaint that comes in and alleges six violations as
15 six complaints received?

16 He's shaking his head no, that it's literally
17 a complaint that may contain six violations. So we are
18 not padding statistics, just for the record, by making
19 a complaint that alleges six violations as six
20 complaints.

21 TOM ROMOLA: No, I talked with Julie at the
22 convention, and that's not the case.

23 JAN ZAVISLAN: Well, I'm telling you what the
24 case is with respect to the numbers that we have
25 published.

1 TOM ROMOLA: I hope it's changed, but that
2 was not the case.

3 JAN ZAVISLAN: Neal.

4 NEAL MOYNAHAN: There's certainly -- I can
5 speak from a lending side, the confusion here between
6 number of complaints and the types of complaints, we
7 report on the lending two separate stats.

8 The first one is the number of complaints.
9 And then we also present the number of different types
10 of violations we're seeing. They may exceed total
11 number of complaints.

12 Maybe where the confusion is to (inaudible.)
13 Padded. We always report the number of complaints
14 separately to the aggregate number of types of
15 complaint.

16 JAN ZAVISLAN: And so Neal Moynahan is -- I
17 mean, he manages our regulatory side on the lending and
18 debt settlement.

19 But, Nick, on the license side, I haven't
20 seen those statistics where we report number of
21 complaints received separately from whatever happened
22 to be the number of violations that are encompassed
23 within those complaints.

24 But, you know, it's -- it's -- again, I don't
25 think it's an illegitimate concern. If we're going to

1 do that, we'll make it absolutely clear that we've got
2 X number of actual separate complaints, and among
3 those, we have seen the following violations.

4 (Inaudible) that, in fact, number of
5 complaints, but I think it's fair that we have to
6 accurately report individual complaints that come in.
7 I know that's what we do on the consumer fraud side of
8 the office.

9 We don't -- when we report complaint data, we
10 do this every year, we're not -- and we had plenty of
11 consumer fraud complaints that alleged multiple
12 violations of the statutes that we enforce, sometimes
13 multiple violations of the federal statutes that we
14 enforce.

15 But we just -- we just report on the raw
16 complaint numbers. Michael.

17 MICHAEL DEEDS: In terms of the meeting, it
18 might be helpful if you could Skype the meeting. I
19 mean, I don't mind coming to Denver, but it's a two-day
20 trip for me.

21 Other people might want to listen and provide
22 information that I didn't want to bring up. Second
23 thing is, in terms of describing or reporting the
24 complaints you receive, the CFPD website is pretty
25 good. It's extraordinarily grand.

1 It's kind of a shame on-site. It names
2 names. It has the top ten collection firms to have
3 complaints filed against it. It breaks it down, bad
4 address, multiple calls, and it's pretty -- pretty
5 detail oriented.

6 I don't know if that's the kind of detail you
7 want to do. They do show, in very, very great detail
8 one format by which they have at least reported it.

9 JAN ZAVISLAN: So we have -- to be quite
10 honest, we have technological limitations on our
11 ability to do that currently.

12 We are in the process of trying to implement
13 newer, more modern technologies that would be a
14 platform for everything from licensing, license
15 renewals, online payments, complaints -- complaints --
16 try to really -- but we have people here that are far
17 knowledgeable about what a difficulty that has been.

18 But we're still working on that. You know, I
19 know that the administration -- not the administrator
20 but the Attorney General -- over the time that I've
21 been here, have been very reluctant almost to a person
22 to provide too much granular detail about individual
23 consumer complaints.

24 And I don't think you're telling me that we
25 would do that differently. I know the CFDCPA doesn't

1 identify who the consumer is or provide any personal
2 identifying information.

3 We would -- if we go that route, I'm
4 absolutely certain that whomever our Attorney General
5 is will try to stop that as well, stop it at that line
6 as well.

7 So I think it's worth having maybe further
8 discussions about, you know, you have people, I think,
9 in your industry that may not be happy to see their
10 names easily accessible by complaints filed against
11 them on our website.

12 But we get concerns raised all the time about
13 the fact that our disciplinary histories show up on our
14 website. I think it's worth having a conversation.
15 Again, speaking for myself, I'm someone who very much
16 likes transparency.

17 I think that there's a lot of value for
18 legitimate members of the industry, in particular, to
19 know who's cheating the game.

20 Other comments. Yes.

21 JULIA GERMAN: My name is Julia German. I'm
22 also with Linebarger Law Firm. I think there's an
23 opportunity to serve the consumer and create efficiency
24 based on everything that I'm saying, (inaudible) on the
25 complaint side, where I'd say we get -- I was told when

1 I was hired we get more consumer complaints than any
2 law firm.

3 But it's largely because I work for the toll
4 (inaudible) so it's debts for the toll roads. And it's
5 because the authorizing statutes are the way they're
6 formed, especially with technology, toll car accidents
7 are an enormous motivator for a change.

8 You drive through, and your bill is coming
9 from the DMV or coming from the DOR.

10 JAN ZAVISLAN: Or the rental car company.

11 JULIA GERMAN: That's right. But the statute
12 in place is a system that will work, right? Except
13 that we don't all keep our data (inaudible) do a world
14 of work. And when that system isn't clear to every
15 single driver on the road, it comes to your --

16 THE REPORTER: I'm having a hard time hearing
17 you. People are talking over here. Could I have those
18 people stop talking, please?

19 JAN ZAVISLAN: I'll ask you to repeat a
20 little bit of what you just said.

21 JULIA GERMAN: I apologize for the
22 redundancy. My point is really just that what we see
23 is that, if the public was aware of what the statute
24 is, that isn't really a collection statute, it's a toll
25 statute and a transportation statute, if they were

1 aware of the way that was structured and the change in
2 the technology that is on this side, then our
3 organization's collection agency would be able to do a
4 better service in having interaction.

5 What we are seeing, and I'm getting to, which
6 is, you know, very nice. I've met Nick on the phone.
7 But, unfortunately, what we are doing is he and I are
8 having a lot of conversations with consumers explaining
9 the law, and it's nothing to do with collections.

10 It's nothing to do with bad data on our part
11 or on the appropriate calling. And so as far as this
12 room is concerned, it's outside of the sphere, but
13 we're taking so much of the resources away from your
14 office by having to explain something that consumers
15 just simply aren't aware of.

16 And that could be, you know, people say,
17 "Well, the toll road should let us know." Well, the
18 toll road has very strict notice requirements and huge
19 billboards everywhere on the highway.

20 They are very sensitive to these things, and
21 they are absolutely in compliance. And their own
22 notices before we go (inaudible) work a account, are
23 extraordinarily detailed.

24 So when we talk about clarity, thing that
25 could be on the website, creating a database that

1 tracks the kinds of complaints, when someone calls me
2 and says, "I see your law firm gets all these
3 complaints," because they're seeing, you know, Internet
4 trolls. Like, "I'm angry and I'm going to put
5 something out there."

6 They assume that there's bad business
7 practice. And instead, the -- you know, I mean, we get
8 X number of complaints. If you're concerned that you
9 weren't the driver of your vehicle, there's a statute
10 that says it's the registered owner of that vehicle.

11 These simple things that I don't have to get
12 into here today. But that information is extremely
13 simple. And that's what people found. I think that we
14 would see people not going into the collections, sort
15 of, stage of their interaction with my client.

16 And then, of course, your office wouldn't
17 have to deal with all the confusion that creates a lot
18 of anger.

19 JAN ZAVISLAN: Thank you.

20 JULIA GERMAN: Thank you.

21 JAN ZAVISLAN: So has everybody filled out
22 their name on a sign-in sheet? Raise your hand if you
23 haven't seen it. Okay.

24 SONIA GIBSON: Question. Two parts to a
25 question about next time. Just wondering why the six-

1 month timeline in the meeting for consumer advocates
2 versus the collection agencies, and then also, are
3 there actually rules that are being contemplated?

4 Are you going to the rulemaking process, or
5 is it too early? What's the next process in the
6 process?

7 JAN ZAVISLAN: For the two parts, one was the
8 six-month difference between or separation between the
9 consumer meeting and industry meeting, and then whether
10 we are right now in the process of going into
11 rulemaking.

12 For the former, I wasn't involved in the
13 legislative discussions on this bill, so I don't know
14 how that was arrived at a compromise in the general
15 assembly. Tom, I'm sure, was involved and knows.

16 Maybe it's if they were too close together
17 there would be a fistfight?

18 TOM ROMOLA: It's a possibility. Yeah. No,
19 really. The original concept was to have two meetings
20 per year, period. The original concept was not to
21 divide consumers and the debt collectors.

22 JAN ZAVISLAN: Right.

23 TOM ROMOLA: Having said that, I'm -- I want
24 to say, after sitting here in the consumer portion, and
25 they probably feel the same way today, it would turn

1 into a fistfight. So it's probably wise that they're
2 separated.

3 There was some -- a lot of things that went
4 into play into this compromise. It's more detailed
5 than I need to go into. We're stuck with what we have.

6 JAN ZAVISLAN: It was a legislative
7 compromise, apparently. As to rulemaking, I mean, we
8 are -- it's -- an interim anything shouldn't undertake
9 something like rulemaking.

10 So you know that the very first day that I
11 came in as interim administrator, we talked about both
12 legislative agendas and rulemaking agendas. But that's
13 going to get put off until we have a full-time
14 administrator.

15 It may, in fact, be put off until we have a
16 new Attorney General as well because the administrator
17 needs to be reappointed by the Attorney General.
18 There's no question in my mind that whomever gets hired
19 now will be reappointed.

20 I've been here too long and seen too many AGs
21 in my career to know that usually they don't reach down
22 to the administrator. Usually, the administrator is
23 somebody who has expertise the AG will need.

24 But I will tell you that, both from the
25 consumer meeting in January and from this one, we're

1 compiling a list of things that we think it's due time
2 for us to do rulemaking. And we're required in every
3 budget cycle in November to report to the legislature
4 what our rulemaking agendas are or are likely to be,
5 even if we don't end up rulemaking.

6 I think that the real mood is from everybody
7 in the section that I've been talking to is it's long
8 overdue. So I would expect in the next three to five
9 months to see some -- either some requests for
10 information, where we would actually request more
11 formalized ideas and thoughts, both from an industry
12 and from the consumer groups, about areas of rulemaking
13 as a precursor to actually doing a notice of proposed
14 rulemaking and setting hearing.

15 But I -- you know, if it were up to me, we
16 would do it in the next six months.

17 SONIA GIBBONS: My follow-up comment, I
18 actually agree. I do think that having the ability to
19 discuss with the other side will actually speed up the
20 process and be healthy, mostly because -- so, for
21 example, if we're here suggesting that we want email
22 communication, but consumer advocates absolutely
23 disagree, then I think we're sort of letting that
24 simmer for six months until we find that that's
25 something they don't agree with.

1 It would be good to have a back and forth,
2 and more communication is better than less. That would
3 be nice to have a dialogue.

4 JAN ZAVISLAN: So my view is -- and I guess
5 it's a little different than Julie's. And I know that
6 there's some folks here from Bell and from Colorado
7 Legal Services, and my idea is not to exclude either of
8 you or anybody else from talking at this meeting.

9 I don't think that's what the thinking was
10 back in January. My view is, it's a public meeting.
11 And at a public meeting, the public, regardless of whom
12 they represent, are allowed to speak.

13 That's how I read our Administrative
14 Procedures Act. So for Rich or Jose or anybody else,
15 if you guys have something you just would dearly love,
16 in the spirit of -- not compromise, but
17 professionalism, I'd be happy to let you guys speak on
18 the record as well.

19 RICHARD (inaudible last name): I can stay
20 right here. I think it is beneficial to participate in
21 both of the meetings and to hear what the industry is
22 saying and suggesting.

23 And I think they may have gained something
24 from the comments that we made. Michelle is here as
25 well. (Inaudible).

1 JAN ZAVISLAN: I'm really just more
2 interested in, for the future, what makes these more
3 meaningful, what makes these more helpful to the
4 administrator, helpful to the industry, helpful to the
5 public in making all this work. Rich, thanks. I
6 appreciate that.

7 Last opportunity if anybody wants to speak.

8 MICHAEL LANDIS: I have a question about
9 getting on the -- Michael Landis from Colorado Public
10 Center Research Group. I have a question about getting
11 on the list so we get notification of the meetings.
12 And I just was wondering, how do I get on that list?

13 JAN ZAVISLAN: Talk to Kate. Right here.
14 Raise your hand. And what we'll do is -- the reason --
15 I don't know what the sign-up sheet says, if you put
16 your email address, or if there's not a column for
17 it -- so that there is.

18 Put your contact information, and we will add
19 everybody who attends today to the -- we call it
20 "interested persons to invite." We'll add you to that.
21 Thank you.

22 ALAN DRAPER: Alan Draper. Any idea on when
23 we'll have a new administrator?

24 JAN ZAVISLAN: Not soon enough for me. How's
25 that for an answer? Hopefully in the last stretches of

1 that. So . . . Thank you.

2 TOM ROMOLA: I just want to thank you for
3 hosting the meeting today. And two, for changing the
4 meeting to accommodate our side --

5 JAN ZAVISLAN: An oversight by me.

6 TOM ROMOLA: -- the conflict that we had. I
7 appreciate that very much. I look forward to working
8 with whoever.

9 JAN ZAVISLAN: Don't say with me because I'm
10 out of here. Anybody else before we go?

11 Listen, thank you all very much. I think
12 this was really interesting for me and, hopefully,
13 we'll have a record for the new administrator to come
14 in about the kind of things that are important to you.

15 And the goal being, you know, greater
16 communication. I hear that certainly loud and clear.
17 And I think the interim periods are hard for consumers.
18 But I think they're especially hard for the industry,
19 who may not get as quick a response as maybe as they're
20 entitled to.

21 So thank you all very much. Thank you.

22 (Exhibit 1 was marked after the hearing.)

23 (Whereupon, the meeting was adjourned at
24 2:51 p.m.)

25

1 REPORTER'S CERTIFICATE

2 I, Wendy McCaffrey, Registered Professional
3 Reporter and Notary Public in and for the State of
4 Colorado, do hereby certify that said proceedings were
5 taken in shorthand by me at the time and place
6 hereinabove set forth and were thereafter reduced to
7 typewritten form under my supervision, as per the
8 foregoing transcript; that the same is a complete,
9 true, and correct transcription of my shorthand notes
10 then and there taken.

11 I further certify that I am not related to,
12 employed by, nor of counsel for any of the parties or
13 attorneys herein, nor otherwise interested in the event
14 of the within action.

15 My commission expires January 31, 2020; and I
16 have hereunto set my hand this August 9th, 2018.

17
18
19
20
21 
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and

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